

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted by either submission using the EFS WEB submission system, fax to the U.S. Patent and Trademark office to fax number 571-273-8300, or is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 to on June 7, 2006.

/David J. McKenzie/  
Attorney for Applicant

PATENT  
Docket No. 2032.2.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	James L. Freeby, et al	)
		)
Serial No.:	10/668,830	)
		) Group Art
Filed:	September 23, 2003	) Unit: 3635
		)
For:	<b>DEVICE FOR PROTECTING AN OBJECT FROM</b>	)
	<b>ENCROACHING ELEMENTS</b>	)
		)
Examiner:	Basil S. Katcheves	

REPLY BRIEF

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Examiner:

The Appellants filed a timely Notice of Appeal on July 14, 2005, which was filed in response to the Final Office Action mailed May 24, 2005. Appellants appeal the rejection of pending Claims 1-20.

This Reply Brief is being filed under the provisions of 37 C.F.R. § 41.41 and in response to the Examiner's Answer mailed on April 7, 2006.

## **1. REAL PARTY IN INTEREST**

There is no real party in interest other than the inventors, as the inventors James L. Freeby and Alex Boyter have not assigned their invention.

## **2. RELATED APPEALS AND INTERFERENCES**

There are no related appeals, interferences, or judicial proceedings.

## **3. STATUS OF CLAIMS**

The Final Office Action rejected Claims 1-20. Claims 1-10, 12-14, 16-17, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,946,569 to Stuber (hereinafter “*Stuber*”) in view of U.S. Patent No. 237,172 to Dentler (hereinafter “*Dentler*”). Claims 11, 15, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Stuber* and *Dentler* in view of U.S. Patent No. 5,048,605 to Toon et al. (hereinafter “*Toon*”). Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Stuber* and *Dentler* in view of U.S. Patent No. 6,399,544 to Fairchild et al. (hereinafter “*Fairchild*”).

The claims remain rejected as set forth in the final rejection of May 24, 2005. The Examiner found Appellants’ arguments unpersuasive. Appellants appeal the rejection of Claims 1-20.

## **4. STATUS OF AMENDMENTS**

No amendments have been submitted subsequent to the Final Office Action mailed May 24, 2005.

## 5. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention involves fire barriers and methods for protecting an object against fire. *See* specification, paragraph 1. In particular, the present invention involves fire barriers and a method for protecting an object from encroaching elements. *See* specification, paragraph 8. Advantageously, the fire barriers and methods are environmentally-friendly, prevent water damage, inhibit foliage growth, and deter insects. *See* specification, paragraph 26.

Embodiments of the present invention include fire barriers and a method for protecting an object from fire.<sup>1</sup> *See e.g.* Claims 1, 13, and 20. The fire barrier 100 of Claim 1 includes an organic bentonite-based material 104 and an outer boundary surface 106 disposed to retain the material 104 in a selected location, the location at least partially surrounding an object 102. *See* Figure 1, specification paragraph 25. In one embodiment, the bentonite-based material 104 comprises at least 50% bentonite. *See* Claims 13 and 20. The fire barrier of Claim 20 further includes the object being protected by the fire barrier 102. *See* Claim 20.

The top surface of the organic bentonite-based material 104 remains uncovered and exposed to the aboveground environment after being disposed within the outer boundary surface 106. *See* Figures 1-2 and Claim 1. The organic bentonite-based material 104 inhibits plant growth and thereby protects the object 102 from fire. *See* Claim 1 and specification, paragraph 26. The object 102 may be a utility pole, a fence, a building, or other object. *See* specification, paragraphs 25 and 32.

The material 104 may be disposed surrounding the base of the object 102. *See* specification, paragraph 28. The material 104 is disposed around the object 102 extending outward from the object 102 a predetermined distance. *Id.* Additionally, the material 104 is disposed around the object 102 to a predetermined depth. *Id.*

The organic bentonite-based mixture creates a hostile vegetation growth region about the object, absorbing water and maintaining a salinity level toxic to vegetation, thereby protecting the object from combustion of vegetation within the location. *See* specification, paragraph 26 and

---

<sup>1</sup> Although Appellant has summarized embodiments of the present invention, the present invention is defined by the claims themselves. Appellant's summary is not intended to limit the scope of the claims or individual claim elements in complying with the appeal brief requirements under 37 C.F.R. § 41.37(c)(v).

Claim 20.

A method for protecting an object from fire is also provided. *See* specification, paragraph 11 and Claim 13. In one embodiment, the method comprises preparing an area surrounding an object 102 for receiving an outer boundary surface 106, the area extending from the object 102 a distance suitable to keep vegetation outside the area from igniting the object 102. *See* Claim 13. The method further includes disposing the outer boundary surface 106 to retain a material 104 in a location, the location at least partially surrounding the object 102. *Id.* The method also includes depositing an organic bentonite-based mixture 104 comprising at least 50% bentonite within the outer boundary surface 106, a top surface of the bentonite-based mixture remaining exposed to the aboveground environment after disposing the bentonite-based mixture 104 within the outer boundary surface 106. *Id.* The bentonite-based mixture creates a hostile growing environment for vegetation. *Id.*

Depositing the material 104 may comprise depositing the material 104 and forming an upward slope towards the object 102. *See* Claim 17. In one embodiment, depositing the material 104 comprises pumping the material 104 from a source. *See* specification, paragraph 12. Alternatively, depositing the material 104 may comprise shoveling the material 104 from the source. *Id.*

## 6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

I. Whether the Examiner failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a) for Claims 1-10, 12-14, 16-17, and 19 where the limitations of the claims are not taught or suggested within the combination of *Stuber* and *Dentler*.

II. Whether the Examiner failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a) for Claims 11, 15, and 20 where the limitations of the claims are not taught or suggested within the combination of *Stuber*, *Dentler*, and *Toon*.

II. Whether the Examiner failed to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a) for Claim 18 where the limitations of the claims are not taught or suggested within the combination of *Stuber*, *Dentler*, and *Fairchild*.

Each of these arguments was addressed in the previously filed Appeal Brief. The Examiner has answered these arguments in the Answer mailed April 7, 2006. Applicants respond to the Examiner's Answer in the section below.

## 7. RESPONSE TO EXAMINER'S ARGUMENTS

In response to Applicants argument that Stuber and Dentler fail to teach a motivation or suggestion to combine Dentler and Stuber, the Examiner answers that **the prior art teaches an area around a pole which is not capable of sustaining plant growth and that “Both metal (Dentler) and Bituminous materials (Stuber) prevent the spread of plant life and fires.”** Applicants continue to disagree.

It may be beneficial to understand the meaning of the word “bituminous.” The word bituminous may refer to materials that are like or include bitumen. Bitumen is “Any of various flammable mixtures of hydrocarbons and other substances.” (see <http://www.thefreedictionary.com/bitumen>). The statement by the Examiner that “bituminous materials (Stuber) prevent the spread of plant life and fires” is false. In fact, bituminous materials would enhance and promote the spread of fires. Furthermore, Applicants fail to see where in Stuber or Dentler use of Bituminous materials is taught or disclosed.

An review of the Examiner’s motivation to combine Dentler and Stuber is now appropriate considering the misunderstanding raised regarding Bituminous materials. Establishing a motivation to combine prior art references is the first requirement in establishing a *prima facie* case of obviousness. The Examiner has failed to properly establish a motivation or suggestion to combine the prior art references. “There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art.” *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998), as cited by the MPEP § 2143.01.

The Examiner has discussed at length the “nature of the problem to be solved.” In fact, the Examiner has admitted that the problems that both *Dentler* and *Stuber* set out to solve are distinct from the claimed invention when the Examiner stated, “[t]he prior art does not recognize the same problems of the applicant...” See Examiner’s Answer, page 8. Therefore, the Examiner has not found a motivation to combine the references from a first possible source (i.e. “the nature of the problem”).

The statement by the Examiner that the prior art does not recognize the same problems as the Applicants also indicates that the source for the motivation to combine is not found in the teachings of the prior art. The Examiner does point out that *Dentler* is “combined not because of the material it is made from, but because of the teaching to place the ringed support at ground level.” See Examiner’s Answer, page 8. The Examiner points to lines 50-55 of *Dentler* in supporting the above statement. It may be relevant to take a closer look at lines 50-55, which state (emphasis added):

In this manner the post is **firmly anchored or steadied** in the ground, so as to remove all liability of its becoming loose or being thrown down by winds or other causes.

The teaching of *Dentler*, therefore, is a block that is configured to firmly anchor a post. A block formed of metal or tarred wood, is clearly not configured to be deposited within an outer boundary, as required by the claim language, but rather is fitted loosely on the post. See *Dentler*, lines 48-50. Similarly, *Stuber* teaches bracelet members that are configured to “hold the post firmly in place in the hole.” See *Stuber*, col. 2, lines 41-42. The bracelet members, like the block of *Dentler*, slide down the post. Neither *Dentler* nor *Stuber* teach an organic bentonite-based material capable of being deposited or disposed within an outer boundary surface. Such a limitation is specifically recited in Claim 1. Because neither *Dentler* nor *Stuber* teach the claimed invention, the Examiner must find a source of motivation to combine in the “knowledge of persons of ordinary skill in the art.”

In fact, the Examiner’s Answer states, “[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to modify *Stuber* ... to help firmly anchor the post to the ground.” See Examiner’s Answer, pages 3-4. The MPEP § 2142 states in pertinent part (emphasis added):

A statement that modifications of the prior art to meet the claimed invention would have been “ ‘well within the ordinary skill of the art at the time the claimed invention was made’ ” because the references relied upon teach that all aspects of the claimed invention were individually known in the art **is not sufficient to establish a *prima facie* case of obviousness** without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). See also *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000)

*See* MPEP §2142 under the heading **FACT THAT THE CLAIMED INVENTION IS WITHIN THE CAPABILITIES OF ONE OF ORDINARY SKILL IN THE ART IS NOT SUFFICIENT BY ITSELF TO ESTABLISH *PRIMA FACIE* OBVIOUSNESS.**

Here, the Examiner fails to provide any objective reason to combine the teachings of the references, and therefore the Examiner's statement **is not sufficient to establish a *prima facie* case of obviousness.** The Examiner merely states "[i]t would have been obvious to one having ordinary skill in the art..."

Incidentally, the Examiner states that one of ordinary skill in the art would modify *Stuber* and *Dentler* in order to "...help firmly anchor the post to the ground." It is clear that the teachings of *Stuber* and *Dentler* lend themselves to securing posts. Unfortunately for the Examiner's position, the claimed invention is not concerned with the securing of posts. The above statement by the Examiner supports the fact that a combination of *Stuber* and *Dentler* teaches away from the present invention and subsequently a person of ordinary skill in the art would not modify *Stuber* and *Dentler* to arrive at the claimed invention.

Therefore, the Applicants submit that the Examiner has not properly found a motivation or suggestion to combine in accordance with the MPEP, but rather has improperly rejected independent Claim 1.

In response to Applicants' argument that Dentler's block (D) does not act in such a manner to prevent fires because it is tar coated wood (inherently flammable), **the Examiner answers that Dentler discloses the use of metal, and that Dentler "is combined not because of the material it is made from, but because of the teaching to place the ringed support at ground level."** Furthermore, **the Examiner answers that Stuber's bracelets are made from bentonite, meeting the claim limitation of the applicant.** Applicants continue to disagree.

Dentler teaches that the block, whether made of tar coated wood or metal, is "fitted loosely on the post or capable of sliding thereon..." *See* Dentler, lines 48-50. Disregarding the fact that the "heavy" block is difficult to install because one must slide it over a post (and subsequently impossible to install on tall power poles), the "looseness" required by Dentler for proper installation leads to gaps between the block and the post. Weeds will grow in these gaps



between a block (metal or wood) and the post. The weeds in the gaps provide fuel for a fire. These weeds can extend over the top of a block and defeat any possible fire prevention capabilities the block may have provided. The looseness of the block, therefore, leads to a device that is not structurally equivalent to the bentonite-based device of the claimed invention.

Likewise, Stuber's bracelets slide onto the post. Let us assume, momentarily for sake of the argument, that the bracelet of Stuber is placed at ground level. Necessarily, the bracelet leaves a gap between the bracelet and the post as described above with reference to Dentler. As the swelling agent expands there is no surrounding earth to cause the swelling agent to secure the post. The swelling agent will merely expand away from the post. The utility of Stuber is destroyed because as the swelling agent expands away from the post, the post is left unsecured. Therefore there is no suggestion or motivation to combine because "if [a] proposed modification would render the prior art being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." See MPEP § 2143.01 under the heading **THE PROPOSED MODIFICATION CANNOT RENDER THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE.**

In response to Applicants' argument that seeds may take root and fire may burn the burlap of Stuber, **the Examiner answers that this does not negate the bentonite material placed around the pole.** Applicants note however that this fact does negate an assertion by the Examiner that the Stuber ring prevents fire from reaching the pole. Applicants do not dispute that bentonite has been taught as a means to securing a post. However, Applicants do assert that the prior art references do not teach all of the claim limitations of the claimed invention. Furthermore, Applicants continue to assert that the Examiner has improperly rejected the claimed invention and that there is no suggestion or motivation to combine in either of Dentler, Stuber, or "one of ordinary skill in the art."

In response to Applicants' argument that the prior art does not teach or suggest protecting an object from fire by preventing plant growth, **the Examiner answers that the method is met by the combination of the prior art cited.** Again, Applicants refer to the above discussion describing the reasons why the Examiner failed to combine Stuber and Dentler. Specifically, neither Stuber nor Dentler teach, discuss, or infer a method of disposing an outer boundary

surface and depositing a bentonite-based material. It would be impossible to use the combination of Stuber and Dentler as a method to protect rural power poles. One might ask how the bracelet of Stuber or the block of Dentler is supposed to slide down a 20 – 50 foot installed power pole.

In response to Applicants' argument that the combination is not obvious because it is not obvious to place the bracelets of Stuber at the surface **the Examiner answers that the bracelets of Stuber are used to stabilize the pole, as are the bracelets of Dentler. The Examiner further answers that "Dentler, however, teaches that placing the bracelets at the surface helps better secure them, as noted above."** Applicants agree that the purpose of both Dentler and Stuber is to secure a pole. It is clear that securing posts or poles is paramount to both Dentler and Stuber. However, as described above, there is no need to place a bracelet from Stuber on the surface as in Dentler.

In fact, placing a bracelet from Stuber on the surface would destroy the utility of the bracelet, which is clearly to secure a pole. As detailed previously, placing a bracelet on the surface would not function to protect a pole. First, there would be the aforementioned gap between the bracelet and the pole. Second, as the protective covering dissolved, degraded, or burst due to swelling, the swelling agent would expand away from the pole. The swelling agent would not secure the pole, thereby destroying its utility.

The Examiner has stated that bentonite would remain around the pole in this situation. However, the gap would also remain. Furthermore, the resulting device does not meet the structure of the claimed invention. Specifically, there is no outer boundary surface for retaining the bentonite-based material.

In response to Applicants' argument that the burlap of Stuber will not be sufficiently wet so as to dissolve if placed at the surface, **the Examiner answers that burlap will dissolve when exposed to the elements, as burlap is biodegradable.** Most forms of burlap do in fact dissolve, or more correctly, biodegrade when exposed to the elements. However, this point is moot because the structure of any combination still does not meet the claimed invention. Specifically, there is no outer boundary surface because it is dissolved or biodegraded. Second, there is no bentonite-based material capable of being deposited within the outer boundary surface. Clearly, the prior art references do not teach all of the claim limitations.

In response to Applicants' argument that the percentage of bentonite claimed is not met by the prior art, **the Examiner answers that "a general, broad quantity shows a lack of criticality, therefore making it an obvious choice."** The Examiner notes that the combined prior art "does not disclose specific percentages of bentonite." *See* Final Office Action, May 24, 2005, p. 4. The Examiner notes that "[a]pplicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims." Final Office Action, May 24, 2005, p. 4. Claim 13 specifies a mixture comprising at least 50% bentonite that creates a hostile growing environment for vegetation. *See* Claim 13.

Applicants respectfully submit that they have shown the importance of the percentage of bentonite used in the mixture. The mixture will not effectively prevent plant growth if the mixture does not comprise sufficient bentonite since bentonite provides the mixture with the characteristic of inhibiting plant growth. The specification teaches that one embodiment of the mixture is "*primarily* sodium bentonite" which "advantageously . . . provides an environment that prevents growth around the utility pole." *See* specification, paragraphs 25-26.

Further, the specification teaches "the bentonite in the material 104 deprives seeds, roots, and plants of water and provides a salinity level which is detrimental to plant growth." *Id.*, paragraph 26. In addition, Claim 13 itself discloses the importance of the percentage of bentonite in the mixture by reciting that the mixture comprising at least 50% percent bentonite creates a hostile growing environment for vegetation. *See* Claim 13.

The MPEP offers direction regarding matters held to be an obvious "design choice." In pertinent part, "[t]he mere fact that a worker in the art could rearrange the parts of a reference device to meet the terms of the claims on appeal **is not by itself sufficient to support a finding of obviousness.**" *See* MPEP 2144.04(V)(C). Furthermore, the prior art must provide a motivation or reason for the worker in the art, without the benefit of applicants' specification to make necessary changes in the reference device. *Id.*

The Examiner has not pointed out a motivation or a reason. In fact, the Examiner uses broad sweeping statements to support the rejection to Claim 20. Specifically, the Examiner

merely states “it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify *Stuber*...to help firmly anchor the post to the ground.” Firmly anchoring the post to the ground is not a purpose of the claimed invention.

Clearly, the Examiner has used the Applicants’ specification to support a finding of obviousness. The Examiner has selected elements from prior art references, none of which suggest operation as fire barriers. Applicants assert that the motivation to combine the prior art references has come from the claimed invention, not the references themselves.

“[I]t is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious. . . . This court has previously stated that ‘[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.’” *In re Fritch*, 23 USPQ 2d 1780, 1784 (Fed. Cir. 1992).

Applicants respectfully assert that if the prior art of record so clearly demonstrates the obviousness of the claimed invention, a single reference would teach more than just one or two elements of the claimed invention. However, the formation of the combinations used in the rejections is indicative of impermissible hindsight analysis by the Examiner

In response to Applicants’ argument that the use of Fairchild reference does not teach a fire barrier, **the Examiner answers that “the applicant should note that the structure claimed is met by the combination of art for claim, and therefore may perform in the same manner as that of the instant application.”** Applicants again disagree. The combination of the prior art does not meet the structure of the claimed invention. Specifically, none of the references teaches an outer boundary layer and a bentonite-based material capable of being deposited within the outer boundary layer.

The Examiner relies on *Fairchild* in rejecting Claim 18. However, *Fairchild* does not teach a method for protecting an object from fire including “preparing an area surrounding an object . . . to keep vegetation outside the area from igniting the object” as described above. *See* Claim 13.

### SUMMARY

In view of the foregoing, each of the claims on appeal has been improperly rejected. Applicants continue to maintain the arguments put forth in the Appeal Brief filed September 16, 2005. Appellants submit that the foregoing arguments establish the non-obviousness of the claims of the present application, notwithstanding the Examiner's Answer. Accordingly, Appellants submit that Claims 1-20 are patentable. Therefore, Appellants respectfully request reversal of the Examiner's rejection of Claims 1-20 under 35 U.S.C. § 103(a) and allow pending Claims 1-20.

Respectfully submitted,

\_\_\_/s/ David J. McKenzie\_\_\_\_\_

David J. McKenzie

Reg. No. 46,919

Attorney for Appellants

Date: June 7, 2006

8 East Broadway, Suite 600

Salt Lake City, UT 84111

Telephone (801) 994-4646

Fax (801) 322-1054

## 8. CLAIMS APPENDIX

The claims involved in the appeal are listed below.

1. A fire barrier protecting an object comprising:  
  
an organic bentonite-based material;  
  
an outer boundary surface disposed to retain the material in a selected location, the location at least partially surrounding the object;  
  
wherein the organic bentonite-based material is disposed within the outer boundary surface such that a top surface of the material remains uncovered and exposed to the aboveground environment after disposing the bentonite-based material within the outer boundary; and the organic bentonite-based material forming a region about the object, the region configured to prevent plant growth and thereby protect the object from fire.
2. The fire barrier of claim 1, wherein the boundary surface comprises a retaining device configured to retain the material.
3. The fire barrier of claim 1, wherein the object comprises a pole.
4. The fire barrier of claim 3, wherein the material is disposed surrounding the base of the pole.
5. The fire barrier of claim 3, wherein the material is disposed around the pole extending outward from the pole a distance of between about 6 inches to about 10 feet.
6. The fire barrier of claim 3, wherein the material is disposed around the pole extending outward from the pole a distance of between about 2 inches and about 5 feet.

7. The fire barrier of claim 3, wherein the material is disposed around the pole extending outward from the pole a distance of about 3 feet.
8. The fire barrier of claim 3, wherein the material is disposed around the pole to a depth in the range of between about .25 inches and about 4 feet.
9. The fire barrier of claim 3, wherein the material is disposed around the pole to a depth in the range of between about 4 inches and about 2 feet.
10. The fire barrier of claim 3, wherein the material is disposed around the pole to a depth of about 8 inches.
11. The fire barrier of claim 1, wherein the boundary surface comprises a annular plastic sheet.
12. The fire barrier of claim 1, wherein the boundary surface comprises the edges of a depression.
13. A method for protecting an object from fire, said method comprising:  
  
preparing an area surrounding an object for receiving an outer boundary surface, the area extending from the object a distance suitable to keep vegetation outside the area from igniting the object;  
  
disposing the outer boundary surface to retain a material in a location, the location at least partially surrounding the object; and

depositing an organic bentonite-based mixture comprising at least 50% bentonite within the outer boundary surface, a top surface of the bentonite-based mixture remaining exposed to the aboveground environment after disposing the bentonite-based mixture within the outer boundary surface, the bentonite based mixture creating a hostile growing environment for vegetation.

14. The method of claim 13, wherein preparing an area comprises excavating a depression about the object for holding the mixture.
15. The method of claim 13, wherein providing an outer boundary surface comprises installing a circular plastic sheet configured to retain the mixture.
16. The method of claim 13, wherein depositing the mixture further comprises depositing the mixture in a radius about the object.
17. The method of claim 13, further comprising depositing the mixture and forming an upward slope towards the object.
18. The method of claim 13, wherein depositing the mixture further comprises pumping the mixture from a source.
19. The method of claim 13, further comprising adding bentonite to the bentonite based mixture in response to signs of vegetation growth within the bentonite based mixture.
20. A barrier protecting an object from fire comprising:  
  
an organic object;



an organic bentonite-based mixture comprising at least 50% bentonite and up to 50% soil;

an annular plastic sheet disposed to retain the mixture in a selected location, the location at least partially surrounding the object;

the mixture is disposed around the object, between the plastic sheet and the object such that a top surface of the mixture remains uncovered and exposed to the aboveground environment after disposing the bentonite-based mixture between the plastic sheet and the object, and extending outward from the object a distance of about 3 feet and to a depth of about 8 inches; and

wherein the organic bentonite-based mixture creates a hostile vegetation growth region about the object, absorbing water and maintaining a salinity level toxic to vegetation thereby protecting the object from combustion of vegetation within the location.

## **9. EVIDENCE APPENDIX**

There is no material to be included in the Evidence Appendix.

## **10. RELATED PROCEEDINGS APPENDIX**

There is no material to be included in the Related Proceedings Appendix.